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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8 DERRICK SATCHELL, *et al.*, No. C 03-2659 SI; C 03-2878 SI
9 Plaintiffs,
10 v.
11 FEDEX EXPRESS,
12 Defendant.

**ORDER GRANTING PLAINTIFFS'
MOTION TO COMPEL LIMITED
DEPOSITION OF DR. HATER**

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14 The parties have submitted a discovery dispute to the Court for resolution.¹ Plaintiffs seek a two-
15 hour deposition of Dr. John Hater, an industrial psychologist who developed a validation study for the
16 Customer Service Representative biodata instrument. According to the declaration of Dr. Jennifer
17 Dembowski (previously submitted by FedEx), the biodata instrument was developed and validated for
18 use in selecting customer service representatives, but it was never implemented by FedEx. *See* Pl's
19 Motion Ex. 6 at ¶4 (Dembowski Decl.). FedEx produced the validation study to plaintiffs in November
20 2006, after Dr. Hater had been deposed.

21 Plaintiffs contend they should be permitted to depose Dr. Hater regarding the biodata instrument
22 and the validation study because they are entitled to know about any alternatives to the Basic Skills Test
23 that FedEx contemplated or developed, as well as its reasons for failing to implement such alternatives.
24 The Court agrees. Defendant asserts that the study is not relevant because the study validated the
25 instrument based on retention and not on any performance related criteria. While defendant's
26 characterization of the study may be correct, plaintiffs are entitled to conduct discovery on this study and

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28 ¹ The parties' letter briefs are found at Docket Nos. 531, 544, 545 and 547.

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1 determine for themselves the significance of the study and the biodata instrument.

2 Accordingly, the Court GRANTS plaintiffs' motion may take a two hour telephone or
3 videoconference deposition of Dr. Hater regarding the biodata instrument and the validity study. The
4 parties shall meet and confer regarding the scheduling of the deposition.

5 **IT IS SO ORDERED.**

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7 Dated: January 11, 2007

Susan Illston
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SUSAN ILLSTON
United States District Judge